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EXAMINER

YIGDALL, MICHAEL J

ART UNIT	PAPER NUMBER
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2192

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/865,441

Applicant(s)

GRUMANN, DOUG

Examiner

Michael J. Yigdall

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 21, 2007 has been entered. Claims 1-6 and 8-21 are now pending.

Response to Amendment

2. The rejection of claims 1-6 and 8-20 under 35 U.S.C. 103(a) set forth in the Office action mailed on February 20, 2007 has been withdrawn in view of Applicant's amendment.

Response to Arguments

3. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection set forth below. Applicant's amendment necessitated the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicant regards as the invention.

With respect to claim 10 (previously presented), the claim recites, “repeating the step of generating the performance management tools configuration,” for which there is insufficient antecedent basis in the claims. Claim 1, as amended, does not introduce a step of “generating the performance management tools configuration.”

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-6 and 8-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,655,081 to Bonnell et al. (now made of record, “Bonnell”) in view of U.S. Patent No. 6,792,392 to Knight (now made of record, “Knight”) and in view of U.S. Patent No. 6,272,677 to Lam et al. (art of record, “Lam”).

With respect to claim 1 (currently amended), Bonnell teaches a method for automatically configuring performance management software in a computer system (see, for example, the abstract), comprising:

inventorying and discovering applications (see, for example, application discovery manager 78 in FIG. 12 and column 7, lines 1-8, which shows discovering applications in the computer system).

In Bonnell, agent software system 202 in FIG. 12 is a performance management tool. Bonnell teaches identifying performance management tools (see, for example, step 298 in FIG. 19), but does not expressly disclose:

inventorying and discovering performance management tools.

However, in an analogous art, Knight teaches discovering performance management tools (see, for example, column 2, line 66 to column 3, line 2, which shows finding performance DLLs, and column 2, lines 50-55, which shows that the performance DLLs are performance management tools) to automatically configure performance management software (see, for example, counter collection application 14 in FIG. 1 and column 2, lines 9-12). This enables the performance management software to monitor different subsystems without knowing in advance what performance management tools are available (see, for example, column 2, lines 25-29 and 56-61, and column 3, lines 15-18).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to supplement the method of Bonnell so as to inventory and discover performance management tools, as Knight suggests. In Bonnell, this would enable the manager software system 200 in FIG. 13, for example, to monitor and manage resources in different computer systems (see, for example, column 6, lines 61-67) without knowing in advance what agents are available.

Bonnell in view of Knight further teaches:

generating an inventory list of the applications and the performance management tools (see, for example, object database 49 in FIG. 13, and column 2, lines 36-42, which shows generating such inventory information).

using the inventory list, modifying configuration of the performance management tools in response to the discovered applications so that the performance management tools operate differently in response to changes on the system being analyzed (see, for example, column 12, lines 1-31, which shows modifying the configuration of the agents, and column 12, lines 32-63, which shows that the agents operate differently in response to such changes), wherein the configuration of the performance management tools consists of application-specific interfaces, performance thresholds, collection parameters and alarms applicable to specific performance management tools and the current operating system environment (see, for example, column 11, lines 17-41, which shows that the configuration includes application-specific interfaces and collection parameters, and column 13, lines 9-22, which further shows that the configuration includes performance thresholds and alarms).

Bonnell in view of Knight further teaches automatically initializing the agents in response to the discovered applications to reflect the configuration of the agents (see, for example, column 10, lines 42-58), but in terms of “reinitializing” the agents, does not expressly disclose:

automatically restarting, without intervention of an administrator, the performance management tools in response to the discovered applications to reflect changes to the configuration of the performance management tools.

Nonetheless, Lam teaches automatically restarting agent software systems to reflect changes in the configuration of the agents (see, for example, column 4, lines 12-40). This eliminates the need for manual intervention (see, for example, column 4, lines 40-45).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the method of Bonnell and Knight so as automatically restart

the performance management tools in response to the discovered applications to reflect changes to the configuration of the performance management tools, as Lam suggests. Such as in Lam, this would eliminate any need for administrator intervention.

With respect to claim 2 (original), the rejection of claim 1 is incorporated, and Bonnell in view of Knight and Lam further teaches that the method is executed upon start up of the computer system (see, for example, Knight, column 2, line 66 to column 3, line 2, which shows that the method is executed upon startup).

With respect to claim 3 (original), the rejection of claim 1 is incorporated, and Bonnell in view of Knight and Lam further teaches that the method is executed on demand (see, for example, Bonnell, step 118 in FIG. 8, which shows that the method is executed on demand based on a signal from the manager software system).

With respect to claim 4 (original), the rejection of claim 1 is incorporated, and Bonnell in view of Knight and Lam further teaches that the method is executed periodically (see, for example, Bonnell, step 116 in FIG. 8, which shows that the method is executed periodically based on a timer).

With respect to claim 5 (original), the rejection of claim 1 is incorporated, and Bonnell in view of Knight and Lam further teaches that the method is executed automatically (see, for example, Bonnell, column 7, lines 1-8, which shows that the method is executed automatically).

With respect to claim 6 (original), the rejection of claim 1 is incorporated, Bonnell in view of Knight and Lam further teaches that the step of generating the inventory list comprises

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writing inventory information to an ASCII-format file (see, for example, Bonnell, column 3, lines 62-63, which shows that such information is written to an ASCII-format file).

With respect to claim 8 (original), the rejection of claim 1 is incorporated, and Bonnell in view of Knight and Lam further teaches that the inventory step comprises inventorying installed application programs and installed performance management tools (see, for example, Bonnell, application discovery manager 78 in FIG. 12 and column 7, lines 1-8, and see, for example, Knight, column 2, line 66 to column 3, line 2).

With respect to claim 9 (original), the rejection of claim 8 is incorporated, and Bonnell in view of Knight and Lam further teach inventorying active application programs and active performance management tools (see, for example, Bonnell, application discovery manager 78 in FIG. 12 and column 7, lines 1-8, and see, for example, Knight, column 2, line 66 to column 3, line 2), wherein the active application programs and performance management tools are flagged to indicate an active status (see, for example, Bonnell, column 11, lines 31-35, which shows that active applications are flagged).

With respect to claim 10 (previously presented), the rejection of claim 1 is incorporated, and Bonnell in view of Knight and Lam further teaches:

repeating the step of generating the performance management tools configuration (see, for example, Bonnell, column 10, line 63 to column 11, line 16, which shows that the configuration steps are repeated).

With respect to claim 11 (original), the rejection of claim 1 is incorporated, and Bonnell in view of Knight and Lam further teaches storing the inventory list and the performance management tools configuration in a memory (see, for example, Bonnell, storage devices 24 and 26 in FIG. 11).

With respect to claim 12 (currently amended), the claim is directed to an apparatus that is analogous to the method of claim 1 (see the rejection of claim 1 above). Note that Bonnell in view of Knight and Lam further teaches a registry that reads information from hardware devices, application programs, and performance management programs (see, for example, Knight, system registry 22 in FIG. 1).

With respect to claims 13-17 (original), the rejection of claim 12 is incorporated, and the elements recited in the claims are analogous to those of claims 2, 4, 6, 8 and 9, respectively (see the rejection of claims 2, 4, 6, 8 and 9 above).

With respect to claim 18 (original), the rejection of claim 12 is incorporated, and Bonnell in view of Knight and Lam further teaches an interface that provides manual updating of the inventory file (see, for example, Bonnell, graphical user interface 50 in FIG. 13, and FIGS. 5a and 5b, which shows that such information is manually updatable).

With respect to claim 19 (currently amended), the claim is directed to a method that is analogous to the method of claim 1 (see the rejection of claim 1 above).

With respect to claim 20 (original), the rejection of claim 19 is incorporated, and the elements recited in the claim are analogous to those of claims 1, 2 and 10 (see the rejection of

claims 1, 2 and 10 above). Note that Bonnell in view of Knight and Lam further teaches manually amending the inventory file (see, for example, Bonnell, graphical user interface 50 in FIG. 13, and FIGS. 5a and 5b, which shows that such information is manually amendable).

With respect to claim 21 (new), the rejection of claim 1 is incorporated, and Bonnell in view of Knight and Lam further teaches enabling the administrator to manually edit the generated inventory list and a configuration of the performance management tools differently for each installed application and performance management tool, and according to the current operating system environment (see, for example, Bonnell, graphical user interface 50 in FIG. 13, and FIGS. 5a and 5b, which shows that such information is manually editable, and column 4, lines 30-56, which further shows that the agents are configured differently for different applications and operating environments).

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Yigdall whose telephone number is (571) 272-3707. The examiner can normally be reached on Monday through Friday from 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on (571) 272-3695. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Art Unit 2192

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